

No. 05-961 JAN 30 2006

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**In the Supreme Court of the United States**

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IZUMI PRODUCTS COMPANY,

*Petitioner,*

v.

KONINKLIJKE PHILIPS ELECTRONICS N.V.,  
PHILIPS ELECTRONICS NORTH AMERICA CORPORATION, AND  
PHILIPS DOMESTIC APPLIANCE AND PERSONAL CARE B.V.,  
*Respondents.*

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**On Petition for a Writ of Certiorari to the  
United States Court of Appeals for the Federal Circuit**

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**PETITION FOR A WRIT OF CERTIORARI**

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## QUESTION PRESENTED

The American patent system has long required that patents include two distinct elements: First, a description of the invention in such terms as will "enable" skilled persons to make and use the invention; and Second, one or more "claims" that delimit the patent's scope for purposes of determining whether the patent has been infringed. In this infringement case, the Federal Circuit employed an interpretive methodology that unpredictably allows the enabling disclosure to narrow the claims' plain meaning. The question presented is:

Whether patent claims that are amenable to interpretation based on their plain meaning may be narrowed by an enabling disclosure that neither explicitly disavows the claims' scope nor explicitly defines the claims' terms.

**RULE 29.6 STATEMENT**

Petitioner Izumi Products Company states that it has no parent corporation and that no publicly held company owns 10% or more of its stock.

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## PETITION FOR A WRIT OF CERTIORARI

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Petitioner, Izumi Products Company ("Izumi"), respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Federal Circuit in this case.

### OPINIONS BELOW

The Federal Circuit's opinion (App., *infra*, 1a-21a) is not reported. The opinion of the United States District Court for the District of Delaware (App., *infra*, 22a-61a) is reported at 315 F. Supp. 2d 589 (2004).

### JURISDICTION

The Federal Circuit issued its decision on July 7, 2005. App., *infra*, 1a. Petitioner's timely filed petition for rehearing and rehearing *en banc* was denied on September 16, 2005. App., *infra*, 62a. On December 6, 2005, Chief Justice Roberts extended the time for filing a petition for a writ of certiorari until January 30, 2006. This Court has jurisdiction under 28 U.S.C. § 1254(1).

### STATUTORY PROVISION INVOLVED

The statutory provision involved, 35 U.S.C. § 112, is set out in its entirety at App., *infra*, 63a. As relevant here, it provides:

"The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention."

"The specification shall conclude with one or more claims particularly pointing out and distinctly